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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 TRAFFICSCHOOL.COM, INC., a
12 California corporation; DRIVERS ED
DIRECT, LLC., a California limited
13 liability company,

14 Plaintiffs,

15 v.

16 EDRIVER, INC., ONLINE GURU,
INC., FIND MY SPECIALIST, INC.,
17 and SERIOUSNET, INC., California
corporations; RAVI K. LAHOTI, an
18 individual; RAJ LAHOTI, an
individual; DOES 1 through 10,

19 Defendants.
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Case No. CV 06-7561 PA (CWx)

The Hon. Percy Anderson

**DEFENDANTS' NOTICE OF
DISCOVERY RESPONSES TO BE
OFFERED AT TRIAL**

Complaint Filed: November 28, 2006
Trial: November 6, 2007

1 **SELECTED DISCOVERY RESPONSES OF PLAINTIFFS**
2 **TO BE OFFERED AT TRIAL**
3

4 In accordance with the Court's Civil Trial Order ¶ 14 (March 15, 2007),
5 Defendants hereby submit selected discovery responses served by Plaintiffs that
6 Defendants expect to offer at trial.
7

8 **TABLE OF CONTENTS**

	<u>Page</u>
1. TRAFFICSCHOOL.COM'S SELECTED RESPONSES TO REQUESTS FOR ADMISSIONS NOS. 2, 6, 9, 10, AND 20.....	3
2. DRIVERS ED DIRECT'S SELECTED RESPONSES TO REQUESTS FOR ADMISSIONS NOS. 2, 6, 9, 10, AND 20.....	5
3. TRAFFICSCHOOL.COM'S SELECTED RESPONSES TO REQUESTS FOR PRODUCTION NOS. 11, 12, 14, 15, AND 16	8
4. DRIVERS ED DIRECT'S SELECTED RESPONSES TO REQUESTS FOR PRODUCTION NOS. 11, 12, 14, 15, AND 16	10

1 **1. TRAFFICSCHOOL.COM'S SELECTED RESPONSES TO REQUESTS**
2 **FOR ADMISSIONS NOS. 2, 6, 9, 10, AND 20**

3 The following sets forth TrafficSchool.com's responses to Requests for
4 Admissions Nos. 2, 6, 9, 10, and 20, as provided in TrafficSchool.com, Inc.'s
5 Responses to Defendants' First Set of Requests for Admissions, served on
6 June 13, 2007, which is marked as Trial Exhibit 619:

7 **REQUEST FOR ADMISSION NO. 2:**

8 Admit that when You contacted Defendants to have Your services
9 advertised on DMV.ORG, You did not believe that Defendants were
10 engaging in false advertising.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

12 Responding party objects to this Request for Admission on the grounds
13 that it is too ambiguous to frame an intelligent response as it presumes
14 there was a time "when" Plaintiff TS "contacted Defendants to have
15 [its] services advertised on DMV.ORG" and presumes that at such a
16 time, Plaintiff TS had formed an opinion as to the legal conclusion of
17 "false advertising." Without waiving said objections, Plaintiff TS
18 responds as follows: Denied. At that time of inquiry, Plaintiffs had not
19 formed a belief one way or the other as to the ultimate legal conclusion
20 of whether Defendants were engaged in false advertising.

21 **REQUEST FOR ADMISSION NO. 6:**

22 Admit that You cannot identify any entity that would have advertised
23 on Your Website but for that entity's decision to advertise on
24 DMV.ORG.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

26 Responding Party objects to this Request for Admission on the grounds
27 that it is not relevant to any claim or defense of any party. Plaintiff TS
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1 need not prove actual injury for injunction or monetary relief under the
2 Lanham Act. Without waiving said objections, Plaintiff responds as
3 follows: Admitted.

4 **REQUEST FOR ADMISSION NO. 9:**

5 Admit that You possess no evidence that Defendants caused You to
6 lose revenue from the referral of traffic school services to third parties.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

8 Responding party objects to this Request for Admission on the grounds
9 that it is ambiguous as to "the referral of traffic school services to third
10 parties" as it does not specify whose referral – Defendants or Plaintiff
11 TS's – is meant. Responding Party further objects on the grounds that it
12 is not relevant to any claim or defense of any party and on that basis, no
13 admission or denial is required. Plaintiff TS need not prove actual
14 injury for injunction or monetary relief under the Lanham Act.

15 **REQUEST FOR ADMISSION NO. 10:**

16 Admit that You possess no evidence that Defendants caused You to
17 lose revenue from the advertisement of third party services.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

19 Responding party objects to this Request for Admission on the grounds
20 that it is ambiguous as to "the advertisement of third party services" as
21 it does not specify whose advertisement – Defendants or Plaintiff TS's
22 – is meant. Responding Party further objects on the grounds that it is
23 not relevant to any claim or defense of any party and on that basis, no
24 admission or denial is required. Plaintiff TS need not prove actual
25 injury for injunction or monetary relief under the Lanham Act.

1 **REQUEST FOR ADMISSION NO. 20:**

2 Admit that You cannot demonstrate any loss of property as a result of
3 any conduct by Defendants.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

5 Responding party objects to this Request for Admission on the grounds
6 that it is ambiguous as to "demonstrate any loss of property." Plaintiff
7 TS need not prove "loss of property" for injunction or monetary relief
8 under the Lanham Act, therefore the request is not relevant to any claim
9 or defense of any party and on that basis no admission or denial is
10 required.

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12 2. **DRIVERS ED DIRECT'S SELECTED RESPONSES TO REQUESTS**
13 **FOR ADMISSIONS NOS. 2, 6, 9, 10, AND 20**

14 The following sets forth Drivers Ed Direct's responses to Requests for
15 Admissions Nos. 2, 6, 9, 10, and 20, as provided in Drivers Ed Direct, LLC's
16 Responses to Defendants' First Set of Requests for Admissions, served on
17 June 13, 2007, which are identical to TrafficSchool.com's responses and are marked
18 as Trial Exhibit 620:

19 **REQUEST FOR ADMISSION NO. 2:**

20 Admit that when You contacted Defendants to have Your services
21 advertised on DMV.ORG, You did not believe that Defendants were
22 engaging in false advertising.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

24 Responding party objects to this Request for Admission on the grounds
25 that it is too ambiguous to frame an intelligent response as it presumes
26 there was a time "when" Plaintiff DED"contacted Defendants to have
27 [its] services advertised on DMV.ORG" and presumes that at such a
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1 time, Plaintiff DED had formed an opinion as to the legal conclusion of
2 "false advertising." Without waiving said objections, Plaintiff DED
3 responds as follows: Denied. At that time of inquiry, Plaintiffs had not
4 formed a belief one way or the other as to the ultimate legal conclusion
5 of whether Defendants were engaged in false advertising.

6 **REQUEST FOR ADMISSION NO. 6:**

7 Admit that You cannot identify any entity that would have advertised
8 on Your Website but for that entity's decision to advertise on
9 DMV.ORG.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

11 Responding Party objects to this Request for Admission on the grounds
12 that it is not relevant to any claim or defense of any party. Plaintiff
13 DED need not prove actual injury for injunction or monetary relief
14 under the Lanham Act. Without waiving said objections, Plaintiff
15 responds as follows: Admitted.

16 **REQUEST FOR ADMISSION NO. 9:**

17 Admit that You possess no evidence that Defendants caused You to
18 lose revenue from the referral of drivers education services to third
19 parties.

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

21 Responding party objects to this Request for Admission on the grounds
22 that it is ambiguous as to "the referral of drivers education services to
23 third parties" as it does not specify whose referral – Defendants or
24 Plaintiff DED's – is meant. Responding Party further objects on the
25 grounds that it is not relevant to any claim or defense of any party and
26 on that basis, no admission or denial is required. Plaintiff DED need
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1 not prove actual injury for injunction or monetary relief under the
2 Lanham Act.

3 **REQUEST FOR ADMISSION NO. 10:**

4 Admit that You possess no evidence that Defendants caused You to
5 lose revenue from the advertisement of third party services.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

7 Responding party objects to this Request for Admission on the grounds
8 that it is ambiguous as to "the advertisement of third party services" as
9 it does not specify whose advertisement – Defendants or Plaintiff
10 DED's – is meant. Responding Party further objects on the grounds
11 that it is not relevant to any claim or defense of any party and on that
12 basis, no admission or denial is required. Plaintiff DED need not prove
13 actual injury for injunction or monetary relief under the Lanham Act.
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15 **REQUEST FOR ADMISSION NO. 20:**

16 Admit that You cannot demonstrate any loss of property as a result of
17 any conduct by Defendants.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

19 Responding party objects to this Request for Admission on the grounds
20 that it is ambiguous as to "demonstrate any loss of property." Plaintiff
21 DED need not prove "loss of property" for injunction or monetary relief
22 under the Lanham Act, therefore the request is not relevant to any claim
23 or defense of any party and on that basis no admission or denial is
24 required.
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1 **3. TRAFFICSCHOOL.COM'S SELECTED RESPONSES TO REQUESTS**
2 **FOR PRODUCTION NOS. 11, 12, 14, 15, AND 16**

3 The following sets forth TrafficSchool.com's responses to Requests for
4 Production Nos. 11, 12, 14, 15, and 16 as provided in TrafficSchool.com, Inc.'s
5 Responses to Defendants' First Set of Requests for Production to TrafficSchool.com,
6 Inc, served on June 13, 2007, which is marked as Trial Exhibit 613:

7 **REQUEST FOR PRODUCTION NO. 11:**

8 All Documents reflecting Your loss, if any, of traffic school referral
9 revenues that You contend has been caused by Defendants.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

11 Responding Party objects to this Request on the grounds that it is
12 beyond the scope of permissible discovery because Plaintiffs need not
13 prove actual injury for injunction or monetary relief under the Lanham
14 Act, and while Plaintiffs have and will continue to suffer injury based
15 on Defendants' false advertising, Plaintiffs are not pursuing any
16 recovery of monetary relief based on a measure of "damages sustained
17 by the plaintiff." Accordingly, no such documents will be produced.

18 **REQUEST FOR PRODUCTION NO. 12:**

19 All Documents reflecting Your loss, if any, of drivers education referral
20 revenues that You contend has been caused by Defendants.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

22 Responding Party objects to this Request on the grounds that it is
23 beyond the scope of permissible discovery because Plaintiffs need not
24 prove actual injury for injunction or monetary relief under the Lanham
25 Act, and while Plaintiffs have and will continue to suffer injury based
26 on Defendants' false advertising, Plaintiffs are not pursuing any
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1 recovery of monetary relief based on a measure of "damages sustained
2 by the plaintiff." Accordingly, no such documents will be produced.

3 **REQUEST FOR PRODUCTION NO. 14:**

4 All Documents that support Your contention that You have suffered
5 damages from the type of competition alleged in paragraph 17 of the
6 FAC.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

8 Responding Party objects to this Request on the grounds that it is
9 ambiguous as to "have suffered damages from the type of competition
10 alleged in paragraph 17 of the FAC" because the allegations of
11 paragraph 17 of the FAC are directed toward showing that Defendants
12 and Plaintiffs commercially compete, and not that damages result from
13 that commercial competition but by the false advertising alleged by
14 Defendants elsewhere in the FAC. Responding Party further objects to
15 this Request as beyond the scope of permissible discovery because
16 Plaintiffs need not prove actual injury for injunction or monetary relief
17 under the Lanham Act, and while Plaintiffs have and will continue to
18 suffer injury based on Defendants' false advertising, Plaintiffs are not
19 pursuing any recovery of monetary relief based on a measure of
20 "damages sustained by the plaintiff." Accordingly, no such documents
21 will be produced.

22 **REQUEST FOR PRODUCTION NO. 15:**

23 All Documents that Refer, Pertain, or Relate to Your contention that
24 Plaintiffs have suffered and continue to suffer commercial injury based
25 on Defendants' misrepresentations about their services as alleged in
26 paragraph 19 of the FAC.

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Accordingly, no such documents will be produced.

All Documents that Refer, Pertain, or Relate to Your contention that Plaintiffs are deprived of revenue which they otherwise would have obtained from diverted consumers as alleged in paragraph 19 of the FAC.

See Response to Request No. 15.

The following sets forth Drivers Ed Direct's responses to Requests for Production Nos. 11, 12, 14, 15, and 16 as provided in Drivers Ed Direct, LLC's Responses to Defendants' First Set of Requests for Production to Drivers Ed Direct, LLC, served on June 13, 2007, which are identical to TrafficSchool.com's responses and are marked as Trial Exhibit 614:

All Documents reflecting Your loss, if any, of traffic school referral revenues that You contend has been caused by Defendants.

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1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

2 Responding Party objects to this Request on the grounds that it is
3 ambiguous as to "have suffered damages from the type of competition
4 alleged in paragraph 17 of the FAC" because the allegations of
5 paragraph 17 of the FAC are directed toward showing that Defendants
6 and Plaintiffs commercially compete, and not that damages result from
7 that commercial competition but by the false advertising alleged by
8 Defendants elsewhere in the FAC. Responding Party further objects to
9 this Request as beyond the scope of permissible discovery because
10 Plaintiffs need not prove actual injury for injunction or monetary relief
11 under the Lanham Act, and while Plaintiffs have and will continue to
12 suffer injury based on Defendants' false advertising, Plaintiffs are not
13 pursuing any recovery of monetary relief based on a measure of
14 "damages sustained by the plaintiff." Accordingly, no such documents
15 will be produced.

16 **REQUEST FOR PRODUCTION NO. 15:**

17 All Documents that Refer, Pertain, or Relate to Your contention that
18 Plaintiffs have suffered and continue to suffer commercial injury based
19 on Defendants' misrepresentations about their services as alleged in
20 paragraph 19 of the FAC.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

22 Responding Party further objects to this Request as beyond the scope of
23 permissible discovery because Plaintiffs need not prove actual injury
24 for injunction or monetary relief under the Lanham Act, and while
25 Plaintiffs have and will continue to suffer injury based on Defendants'
26 false advertising, Plaintiffs are not pursuing any recovery of monetary
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1 relief based on a measure of "damages sustained by the plaintiff."
2 Accordingly, no such documents will be produced.
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4 **REQUEST FOR PRODUCTION NO. 16:**

5 All Documents that Refer, Pertain, or Relate to Your contention that
6 Plaintiffs are deprived of revenue which they otherwise would have
7 obtained from diverted consumers as alleged in paragraph 19 of the
8 FAC.
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10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

11 See Response to Request No. 15.
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14 Dated: November 5, 2007

15 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
16

17 By


18 BRIAN M. DAUCHER
19 JOSEPH H. TADROS
20 ASHLEY E. MERLO

21 Attorneys for Defendants
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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles; I am over the age of eighteen
4 years and not a party to the within entitled action; my business address is 333 South Hope
Street, 48th Floor, Los Angeles, California 90071-1448.

5 On November 6, 2007, I served the following document(s) described as
6 **DEFENDANT'S NOTICE OF DISCOVERY RESPONSES TO BE OFFERED AT**
7 **TRIAL** on the interested party(ies) in this action by placing true copies thereof enclosed in
sealed envelopes and/or packages addressed as follows:

8 **Mina I. Hamilton, Esq.**
9 **David N. Makous, Esq.**
10 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
11 **221 North Figueroa Street, Suite 1200**
12 **Los Angeles, CA 90012**
HAMILTON@lbbslaw.com
makous@lbbslaw.com
Telephone: (213) 250-1800
Facsimile: (213) 250-7900

13 ☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and
14 processing correspondence for mailing. Under that practice it would be deposited
15 with the U.S. postal service on that same day with postage thereon fully prepaid at
Los Angeles, California in the ordinary course of business. I am aware that on
motion of the party served, service is presumed invalid if postal cancellation date or
postage meter date is more than one day after date of deposit for mailing in
affidavit.

16 ☐ **BY OVERNIGHT DELIVERY:** I served such envelope or package to be
17 delivered on the same day to an authorized courier or driver authorized by the
18 overnight service carrier to receive documents, in an envelope or package
designated by the overnight service carrier.

19 ☐ **BY FACSIMILE:** I served said document(s) to be transmitted by facsimile
20 pursuant to Rule 2.306 of the California Rules of Court. The telephone number of
the sending facsimile machine was 213-620-1398. The name(s) and facsimile
21 machine telephone number(s) of the person(s) served are set forth in the service list.
The sending facsimile machine (or the machine used to forward the facsimile)
22 issued a transmission report confirming that the transmission was complete and
without error. Pursuant to Rule 2.306(g)(4), a copy of that report is attached to this
23 declaration.

24 ☒ **BY HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the
office of the addressee(s).

25 ☒ **FEDERAL:** I declare that I am employed in the office of a member of the bar of
26 this Court at whose direction the service was made. I declare under penalty of
perjury under the laws of the United States of America that the foregoing is true and
27 correct.
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Executed on **November 6, 2007**, at Los Angeles, California.


Cynthia Coblenz

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